

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PAUL BOVEE,

Plaintiff,

v.

5:24-CV-1138
(DNH/MJK)

AUBURN POLICE DEPARTMENT, et al.,

Defendants.

PAUL BOVEE, Plaintiff, pro se

MITCHELL J. KATZ, U.S. Magistrate Judge

DECISION and ORDER

On October 29, 2024, the court issued an Order and Report-Recommendation (“ORR”) in this action. (Dkt. No. 12). In the ORR, I reviewed plaintiff’s civil rights complaint pursuant to 28 U.S.C. § 1915.¹ (*Id.*). Based upon my initial review, and after finding that plaintiff met the financial criteria to proceed IFP, I recommended that plaintiff’s claim for excessive force against defendant P.O. Luke Parker proceed. (*Id.*). I further recommended that plaintiff’s action against the Auburn Police Department be dismissed with prejudice and that plaintiff’s complaint otherwise be dismissed without prejudice with leave to amend. (*Id.*).

¹ The court assumes familiarity with, and refers to, the ORR for a summary of the facts in the complaint. (Dkt. No. 12, pg. 3).

Plaintiff did not file objections to the ORR. On November 20, 2024, District Court Judge David N. Hurd accepted my ORR, granted plaintiff sixty days in which to file an amended complaint to the extent authorized by my ORR, and upon expiration of the sixty-day period, ordered that the case be referred to me for an order directing service on defendant P.O Luke Parker. (Dkt. No. 15). By text order dated January 30, 2025, District Court Judge Hurd terminated the action against defendants Gray, Wetherell, and Young because plaintiff failed to file an amended complaint consistent with my ORR and directed service on defendant P.O Luke Parker.

WHEREFORE, based on the findings above, and in the ORR (Dkt. No. 12) and Judge Hurd's Order on Report & Recommendation ("Order") (Dkt. No. 15), it is

ORDERED that the Clerk shall issue a summons and forward it, along with a copy of the complaint (Dkt. No. 1), a packet containing General Order 25, which sets forth the Civil Case Management Plan used by the Northern District of New York, and a copy of this Decision and Order, the ORR, and Judge Hurd's Order (Dkt. Nos. 12, 15) to the United States Marshal for service upon defendant P.O. Luke Parker; and it is

ORDERED that a response to plaintiff's complaint be filed by defendant P.O. Luke Parker or his counsel as provided for in the Federal Rules of Civil Procedure; and it is


ORDERED that all pleadings, motions, and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a**

party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was served on all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a proper certificate of service will be stricken from the docket. Plaintiff must comply with all requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with the Local Rules of the Northern District of New York in filing motions. Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel, in writing, of any change in his address; his failure to do so will result in the dismissal of this action; and it is

ORDERED that the Clerk shall provide the superintendent of the facility, designated by plaintiff as his current location, with a copy of plaintiff's authorization form (Dkt. No. 7), and notify the official that this action has been filed and that plaintiff is required to pay the entire statutory filing fee of \$350.00 pursuant to 28 U.S.C. § 1915; and it is

ORDERED that the Clerk shall serve a copy of this Decision and Order on plaintiff.

Dated: February 4, 2025



Mitchell J. Katz
U.S. Magistrate Judge